

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**MARY BLOODSWORTH and  
JERRY BLOODSWORTH,**

**Plaintiffs,**

**v.**

**SMITH & NEPHEW, INC., et al.,**

**Defendants.**

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**Case No.: 2:05-cv-622-D**

**EMERGENCY MOTION TO STAY  
SMITH & NEPHEW, INC.'S EXPERT DISCLOSURE DEADLINE**

Defendant Smith & Nephew, Inc. ("Smith & Nephew") hereby moves the Court to enter an Order staying Smith & Nephew's expert disclosure deadline of December 7, 2006, pending the Court's decision on Smith & Nephew's Motion to Strike Plaintiffs' Expert Disclosure and Exclude Opinion Testimony of Plaintiffs' Expert, Donald F. Hodurski, M.D. As grounds for this motion, Smith & Nephew shows the Court as follows:

1. On March 2, 2006, this Court entered a Scheduling Order setting plaintiffs' expert disclosure deadline for September 11, 2006, and Smith & Nephew's expert disclosure deadline for December 7, 2006.

2. On September 13, 2006, plaintiffs identified Donald F. Hodurski, M.D., as their only expert witness and stated that "the subject matter, facts and opinions of Dr. Hodurski's testimony are expected to be the same as those to which he testified during his deposition of February 6, 2005."

3. On October 12, 2006, Smith & Nephew filed a Motion to Strike Plaintiffs' Expert Disclosure and Exclude Opinion Testimony of Plaintiffs' Expert, Donald F. Hodurski, M.D.

(Doc. # 37). That motion, as well as plaintiffs' opposition brief (Doc. # 40) and Smith & Nephew's reply brief (Doc. # 42), are currently pending before the Court.

4. As discussed in Smith & Nephew's submissions, Plaintiffs' disclosure is devoid of any substance – it completely lacks the details required by Rule 26(a)(2)(B). Without knowing the substance of plaintiffs' "expert" testimony, there is nothing to which Smith & Nephew's potential expert witnesses can respond. To the extent possible, Smith & Nephew wishes to avoid taking on the expense of retaining and preparing an expert and providing the necessary report to respond to allegations for which Plaintiffs have provided no basis.

5. Accordingly, with its expert disclosure deadline fast approaching, Smith & Nephew respectfully requests that the December 7, 2006 deadline be stayed pending the Court's decision on Smith & Nephew's motion to strike, at which time a new expert disclosure deadline should be set, if necessary.

s/ James C. Barton, Jr.

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**OF COUNSEL**

**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the above and foregoing with the Clerk of the Court on November 15, 2006, using the CM/ECF system, which will send notification of such filing to the following:

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